



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1998

Mr. Mark A. Flowers
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR98-1982

Dear Mr. Flowers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118323.

The City of Midland Police Department (the "department") received a request for information regarding two individuals' calls for assistance. You contend that the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code.

After reviewing the submitted information, we conclude that exhibits D, E, and F are confidential under section 552.101 which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

The information at issue resulted from an investigation of sexual assault of a child. We are not aware of any rules promulgated by the department which permit the dissemination of this type of information. Accordingly, the information submitted as exhibits D, E, and F, in its entirety is made confidential by section 261.201 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) (applying former Fam. Code § 34.08).

Next, you assert that section 552.108(a)(2) excepts exhibits B and C from public disclosure. Section 552.108 of the Government Code excepts from required public disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

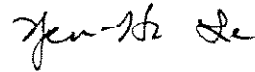
....

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

You indicate that the reported incidents in exhibits B and C did not result in conviction or deferred adjudication. We conclude that you may withhold the incident reports under section 552.108(a)(2). However, we note that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We note that front page offense report information that is required to be disclosed under *Houston Chronicle* includes a detailed description of the offense. *See* Open Records Decision No. 127 (1976). Thus, except for basic information, the remaining requested information in exhibits B and C is excepted from disclosure under section 552.108(a)(2). Although section 552.108 authorizes you to withhold the remaining requested information in exhibits B and C from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 118323

Enclosure: Submitted documents and audiotapes

cc: Mr. Dallas L. Smith, Jr.
P.O. Box 50094
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(w/o enclosures)